

MF 01-7

Tax Type: Motor Fuel Use Tax

Issue: Reasonable Cause on Application of Penalties

**STATE OF ILLINOIS  
DEPARTMENT OF REVENUE  
OFFICE OF ADMINISTRATIVE HEARINGS  
SPRINGFIELD, ILLINOIS**

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**THE DEPARTMENT OF REVENUE  
OF THE STATE OF ILLINOIS**

v.

**ABC, INC.  
Taxpayer**

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**Docket No. 00-ST-0000  
Acct # 000000000000**

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**RECOMMENDATION FOR DISPOSITION**

Appearances: Charles Hickman, Special Assistant Attorney General, for the Department of Revenue of the State of Illinois; John Doe as a representative of ABC, Inc.

Synopsis:

The Department of Revenue ("Department") conducted an audit of ABC, Inc. ("taxpayer") for motor fuel taxes for the period of July 1, 1995 to September 30, 1999. As a result of the audit, the Department determined that the taxpayer owed additional tax and issued a Notice of Tax Liability, which included a late-payment penalty. The taxpayer timely protested the Notice. An evidentiary hearing was held during which the taxpayer requested that the penalty be abated due to reasonable cause. For the following reasons, it is recommended that this matter be resolved in favor of the taxpayer.

FINDINGS OF FACT:

1. The Department audited the taxpayer for the time period of July 1, 1995 through September 30, 1999. (Dept. Ex. #1)

2. The Department had previously audited the taxpayer and found no deficiency. (Tr. pp. 1, 6)

3. When the auditor arrived to conduct the audit for the period covering 1995 to 1999, the taxpayer encountered computer problems. The auditor discontinued the audit until the information could be recovered. (Taxpayer Ex. #2; Tr. p. 6)

4. The information could not be recovered, and the taxpayer had to re-enter the information from the trip tickets into the computer. (Taxpayer Ex. #4, Tr. p. 7)

5. The Department issued a corrected return to the taxpayer for the additional tax owed and a late payment penalty. The corrected return was admitted into evidence under the certificate of the Director of the Department. (Dept. Ex. #1)

#### CONCLUSIONS OF LAW:

The Department imposed the penalty for the late payment of the motor fuel tax pursuant to section 13a.3 of the Motor Fuel Tax Law (35 ILCS 505/1 et seq.). The Department's regulations provide that the penalty may be abated for reasonable cause. (See 86 Ill.Admin.Code §500.335(l)) The Department's regulations concerning reasonable cause provide as follows:

“The determination of whether a taxpayer acted with reasonable cause shall be made on a case by case basis taking into account all pertinent facts and circumstances. The most important factor to be considered in making a determination to abate a penalty will be the extent to which the taxpayer made a good faith effort to determine his proper tax liability and to file and pay his proper liability in a timely fashion.” 86 Ill.Admin.Code §700.400(b)

Under the circumstances of this case, the taxpayer provided sufficient evidence to show reasonable cause. The taxpayer timely filed its returns and was assessed the additional tax because the auditor determined there was a deficiency in the amount owed. The evidence

indicates that this error was due to the computer problems that the taxpayer encountered. The taxpayer's entire computer system failed and countless hours were spent re-entering thousands of trip tickets for the years in question. The audit took over a year and a half to complete because of the time needed to enter the data. Because of the volume of the information that needed to be re-entered, it is likely that there would be keypunch errors or other discrepancies in the information. For these reasons, a waiver of the penalty is warranted.

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Linda Olivero  
Administrative Law Judge

Enter: January 17, 2001